

314 CMR 19.00: OIL SPILL PREVENTION AND RESPONSE

Section

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19.01: Purpose and Authority

(1) The purpose of 314 CMR 19.00: *Oil Spill Prevention and Response* is to regulate those provisions of St. 2004, c. 251, “An Act Relative to Oil Spill Prevention and Response in Buzzards Bay and Other Harbors and Bays of the Commonwealth” (the “Oil Spill Act”), that are the responsibility of the Department to administer and enforce. The Oil Spill Act establishes M.G.L. c. 21M and amends several other existing Massachusetts general laws. At the outset, 314 CMR 19.00 regulates the tugboat escort requirement in M.G.L. c. 21M, §§ 1 and 6. The purpose of 314 CMR 19.03: Tugboat Escort Requirements is to reduce the risk of oil spills from tank vessels transiting designated areas of special interest within Massachusetts waters by requiring tank vessels that are not self-propelled (primarily tank barges) and are carrying 6,000 or more barrels of oil to use a tugboat escort while transiting such areas.

(2) 314 CMR 19.00 is promulgated pursuant to the Department’s authority in St. 2004, c. 251, including M.G.L. c. 21M, §§ 1 and 6.

19.02 Definitions

Area of Special Interest – any water of the Commonwealth that is found by the Secretary of the Office of Environmental Affairs to contain one or more immobile obstacles to navigation, or abuts or includes areas of critical environmental concern, is designated as an estuary of national significance, abuts or includes a habitat for endangered species, abuts or includes public recreation areas, supports shell fishing, fin fishing or tourist industries or abuts or includes sensitive public safety areas. Such waters shall include, but not be limited to, Buzzards Bay, Vineyard Sound and Mount Hope Bay.

Commissioner - the Commissioner of the Department.

Department - the Massachusetts Department of Environmental Protection.

Oil Spill Act – St. 2004, c. 251, which includes M.G.L. c. 21M.

Tank Barge – a tank vessel without a means of self-propulsion or a self-propelled tank vessel less than 40 meters, 130 feet, in overall length.

Tank Vessel – a ship that is constructed or adapted to carry, or that carries, oil or other petroleum product in bulk as cargo and that operates on the waters of the Commonwealth or transfers oil or other petroleum products in a port or place subject to the jurisdiction of the Commonwealth.

Tugboat Escort:

- (a) a tug with twin screws and a separate system for power to each screw, with an aggregate shaft horsepower equivalent to 4,000 horsepower or greater and a minimum bollard pull of 50 tons; or
- (b) a tractor tug, having an aggregate horsepower equivalent to 4,000 horsepower or greater and a minimum bollard pull of 50 tons, which is propelled by blades or screws which may be manipulated or rotated to provide propulsive thrust to any part of a 360 degree arc relative to the keel or longitudinal axis of the tug. As of January 1, 2006, a tugboat escort shall be equipped with fire fighting equipment and, at a minimum, shall meet the requirements of the following American Bureau of Shipping (“ABS”) classifications: Fire Fighting Vessel Class 1 and Maltese Cross A1 (Towing Vessel).

Waters of the Commonwealth - all waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and ground waters.

19.03: Tugboat Escort(1) Tugboat Escort Requirement.

(a) Effective January 1, 2005, no tank vessel carrying 6,000 or more barrels of oil shall enter or transit any area of special interest within waters of the Commonwealth unless such tank vessel is accompanied by a tugboat escort. This tugboat escort requirement does not apply to a self-propelled tank vessel. A tugboat escort shall meet the definition of that term in 314 CMR 19.02.

(b) The Department may authorize a tank vessel carrying 6,000 or more barrels of oil to enter or transit an area of special interest without a tugboat escort, or, accompanied by a tugboat that does not meet the definition of a tugboat escort in 314 CMR 19.02 whenever the Department determines that:

1. there are no tugboat escorts reasonably available to accompany the tank vessel in the relevant area of special interest; or
2. the delay in waiting for an available tugboat escort has or may reasonably result in a significant disruption of energy services to the public; or
3. the existence or threat of a public health, safety or environmental emergency or other unique circumstances warrant the Department's exercise of its enforcement discretion.

The Department may establish policies, procedures, and case-specific conditions to implement its authority under 314 CMR 19.03(1)(b). Any Department authorization for a tank vessel to enter or transit an area of special interest without a tugboat escort, or, accompanied by a tugboat that does not meet the definition of a tugboat escort will relieve the owner or operator of such tank vessel from its obligation under 314 CMR 19.03(1)(a), to the extent specified in the Department's authorization. Nothing in 314 CMR 19.03(1)(b) or in a case-specific Department authorization shall be construed to relieve or otherwise limit the liability of the owner or operator of a tank vessel for any release of oil, hazardous material, or hazardous waste that occurs while the tank vessel enters or transits an area of special interest pursuant to a Department authorization under 314 CMR 19.03(1)(b).

(c) The owner or operator of any tug that is serving as a tug escort shall certify to the Department, on a form established by the Department for such purposes, that the tug meets the design specifications and equipment requirements in the definition of a tugboat escort in 314 CMR 19.02. The Department reserves the right to require the owner or operator of any tug that is serving as a tug escort to further demonstrate to the Department's satisfaction that the tug meets the design specifications in the definition of a tugboat escort in 314 CMR 19.02, including the required minimum bollard pull, and is equipped with fire fighting equipment and meets the required ABS classifications, effective January 1, 2006.

(2) Minimum Standards for Equipment on Tugboat Escorts. The following minimum standards for equipment apply to tugboat escorts:

(a) As of January 1, 2006, a tugboat escort shall be equipped with fire fighting equipment and, at a minimum, shall meet the requirements of the following ABS classifications: Fire Fighting Vessel Class 1 and Maltese Cross A1 (Towing Vessel).

(b) All tugboat escorts shall be equipped with and maintain in good working order:

1. primary and secondary VHF radios;
2. fendering appropriate to absorb the impact inherent in hull-to-hull operations;
3. power line handling equipment fore and aft to mechanically assist in the deployment and/or retrieval of tow lines;
4. tow lines, whether provided by the tank vessel and/or the tugboat escort, shall be maintained in sufficient number, length, condition and strength to assure effective control of the intended vessel maneuver, based on weather conditions, the tank vessel size, and the tugboat escort's bollard pull, and have a strength of at least 1.5 times the tugboat escort's bollard pull; and
5. sufficient braking force to stop a tank vessel that is not self-propelled.

(3) Minimum Standards for Personnel on Tugboat Escorts. The following minimum standards for personnel apply to tugboat escorts:

(a) Tugboat escort crew members shall be certified pursuant to applicable federal laws.

(b) All tugboat escorts shall have sufficient and qualified line-handling capable crew members standing by and available to immediately receive lines from the tank vessel. The crew shall not be assigned duties that would interfere with their ability to immediately respond to an emergency situation.

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(4) Pre-escort Conference. Prior to commencing an escorted transit, the tugboat captain shall contact the tank vessel master to confirm the position of the tank vessel, establish the radio frequency to be used and the anticipated direction of movement and destination of the tank vessel, and exchange other pertinent information that the tugboat captain and the tank vessel master deem necessary to facilitate operations in the case of an unplanned event.

(5) Reporting. The owner or operator of a tugboat shall submit to the Department a report on its tugboat escort activities on a form established by the Department for such purposes. Reporting shall occur on a quarterly basis or on another frequency specified by the Department. The owner or operator of the tugboat shall provide a copy of such report to the relevant Massachusetts pilot commissioner at the same time. At a minimum, the report shall include the following information:

- (a) the identity of all tank vessels escorted by the tugboat and a description of the type and the number of barrels of oil carried by the tank vessel;
- (b) the date and the transit route of all tank vessels escorted by the tugboat; and
- (c) a description of any problems encountered during the escorted transit and the response of the tugboat captain and/or the tank vessel master to such problems.

(6) Authority of Commissioner to Contract with a Tugboat Escort Operator. The Commissioner may contract with one or more tugboat escort operators to assist in the implementation of the tugboat escort requirement in 314 CMR 19.03(1). If the Commissioner chooses to exercise this authority, any such contracting shall be the result of a competitive procurement that is conducted in consultation with the relevant Massachusetts pilot commissioner. Each tugboat escort operator contractor selected by the Commissioner shall meet the definition of a tugboat escort in 314 CMR 19.02, and meet or exceed the minimum standards for equipment and training of personnel on tugboat escorts in 314 CMR 19.03. Any contract with a tugboat escort operator shall provide for service at a regulated rate for a minimum of five years.

REGULATORY AUTHORITY

314 CMR 19.00: M.G.L. c. 21M, §§ 1 and 6.

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314 CMR: DIVISION OF WATER POLLUTION CONTROL

(314 CMR 14.00 THROUGH 17.00: RESERVED)

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